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SUBJECT: UN CRITICIZES ECUADOR'S HUMAN RIGHTS RECORD

1. (SBU) Summary: The UN Committee Against Torture, which oversees countries' compliance with the Convention Against Torture, recently publicly announced that Ecuador needs to adopt a clear definition of the crime of torture and ensure investigation and punishment for acts of torture. The report of the UN committee also found that vulnerable groups in Ecuador did not receive sufficient protections against torture. The UN committee noted that there was a tendency to reject habeas corpus and criticized extensive periods of detention of prisoners before conviction and sentencing. The GOE weakly replied that it has been implementing its human rights plan and training security forces and others in human rights, however there is currently no rehabilitation program for victims of torture. As part of our human rights promotion efforts, we will encourage Congress to address legislative gaps to sanction torture here. End Summary.

2. (U) The president of the UN Committee Against Torture reported on November 11 that Ecuador's legislation does not meet standards set within the UN's Convention Against Torture. The committee had reviewed a GOE report to the committee, as well as an alternative report submitted by human rights NGOs CEDHU, INREDH, and others. Ecuador was given one year to report back to the committee on advances made on some of the committee's recommendations.

#### Impunity for HR Violators

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3. (U) The UN reports that violators of human rights in Ecuador are often penalized with only a fine, receiving no further sanctions. The committee, composed of ten experts from various countries, recommended that Ecuador take action to eliminate immunity for those who commit torture. The committee also found that vulnerable groups such as indigenous, sexual minorities, women, and refugees were not sufficiently protected against torture. The UN committee recommended that Ecuador adjust its law to include all acts that can be defined as torture with clearly defined sanctions for each, that it guarantee indemnity for victims of torture, and that military and police tribunals be absorbed by civil courts.

#### Legislation Needed

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4. (U) Cesar Duque of human rights NGO CEDHU told PolOff on November 28 that Ecuador needs to pass a number of laws to conform with stricter standards against torture stipulated in the 1998 constitution and the Convention Against Torture. A bill, submitted in 2004 by former PRE party deputy Maria Augusta Rivas, would reform the penal code to bring Ecuador into compliance with the Convention against Torture, but did not get beyond the first debate due to a general lack of interest. Ecuador's penal code currently does not include specified sanctions for all the defined acts of torture within the Convention Against Torture.

#### Detention and Prison Conditions

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5. (U) The UN reported that there is a tendency to reject habeas corpus. The committee asked Ecuador to guarantee persons detained by police to right to inform and relative and to consult a freely chosen lawyer and doctor. The UN committee noted an increase in the use of extended detention ("detencion en firme") which they found caused overpopulation of prisons and violated the right to a free and fair trial. A law on extended detention passed in 2003, allows prisoners to be detained indefinitely for certain crimes after indictment but before conviction or sentencing. The law contradicts the constitution which states that a person cannot be held in preventive detention for more than a year. The National Social Rehabilitation Board which runs Ecuador's prisons reported that between 2003 and 2005, 2,348 prisoners were held under extended detention, not including those held in the Ecuador's two largest cities, Quito and Guayaquil. The committee recommended legislative advances to shorten the length of preventative prison, and to eliminate the use of extended detention.

16. (U) Prison overpopulation and the accumulation of unresolved court trials were also noted. The committee referred to the NGO report which stated that only in Pichincha province, there were 390,000 trials pending. Currently, over 60 percent of prisoners nationwide have not been sentenced.

#### GOE Implements National HR Plan

17. (U) The UN committee commended Ecuador for having a national human rights plan. The plan, which the GOE began implementing in 1998, aims to build awareness in the various social sectors of the importance of preventing, eradicating, and sanctioning human rights violations. In its report, the GOE claimed that between 1999-2003 it had trained 35 prison directors, 55 doctors, 49 psychologists, 42 social workers, and 334 prison guards in human rights and UN principles regulating detention of prisoners. However, there is currently no government program to rehabilitate victims of torture.

Comment

18. (SBU) We will be adding Convention Against Torture legislation to our list of congressional priorities and will begin raising the issue with the GOE. The UN statement will bring added pressure for action on the issue.

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